

**PORTLAND MAIN OFFICE**  
1000 SW Third Avenue, Suite 600  
Portland, Oregon 97204  
(503) 727-1000  
[www.usdoj.gov/usao/or](http://www.usdoj.gov/usao/or)



**EUGENE BRANCH**  
405 E 8th Avenue, Suite 2400  
Eugene, Oregon 97401  
(541) 465-6771

**John C. Brassell**  
Assistant U.S. Attorney  
[John.Brasell@usdoj.gov](mailto:John.Brasell@usdoj.gov)  
(541) 776-3564  
*Reply to Medford Office*

**U.S. DEPARTMENT OF JUSTICE**  
United States Attorney's Office  
District of Oregon  
Scott Erik Asphaug  
United States Attorney

**MEDFORD BRANCH**  
310 West Sixth Street  
Medford, Oregon 97501  
(541) 776-3564

February 17, 2022

Devin Huseby  
15 Newtown Street  
Medford, OR 97501

Re: *United States v. Darren Dennis Drake*, Case No. 1:22-cr- 00063-AA  
Amended Plea Agreement Letter

Dear Counsel:

1. **Parties/Scope**: This plea agreement is between this United States Attorney's Office (USAO) and defendant, and thus does not bind any other federal, state, or local prosecuting, administrative, or regulatory authority. This agreement does not apply to any charges other than those specifically mentioned herein.
2. **Charges**: Defendant agrees to plead guilty to Count One of the misdemeanor Information charging conspiracy to commit Lacey Act violations in violation of Title 18, United States Code, Section 371 and Title 16, United States Code, Sections 3372(a) and 3373(d)(2).
3. **Penalties**: The maximum sentence is one year imprisonment, a fine of \$100,000, one year of supervised release, and a \$25 fee assessment. Defendant agrees to pay the fee assessment by the time of entry of guilty plea or explain to the Court why this cannot be done.
4. **Dismissal/No Prosecution**: The USAO will move at the time of sentencing to dismiss any remaining counts against defendant. The USAO further agrees not to bring additional charges against defendant in the District of Oregon arising out of this investigation, known to the USAO at the time of this agreement.
5. **Elements and Factual Basis**: In order for defendant to be found guilty of Count One of the Information, the government must prove the following elements beyond a reasonable doubt:

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First, defendant knowingly conspired and agreed with others to acquire to import, export, transport, sell, receive, acquire, and purchase scorpions; and,

Second, defendant, in the exercise of due care, should have known those actions were done in violation of United States law, treaty, or regulation including 18 U.S.C. § 1716, 50 C.F.R. § 14.61, 50 C.F.R. § 14.63, and/or 50 C.F.R. § 14.91.

Defendant fully discussed the facts of this case and any potential defenses with defense counsel. Defendant committed each of the elements of the crime to which defendant is pleading guilty and admits there is a factual basis for defendant's guilty plea. The following facts are true and undisputed:

- On or about September 4, 2017, defendant agreed and conspired with another to import eight live scorpions from Germany to the District of Oregon (USPS Package ID: LX743111643DE) without first obtaining a FWS Import/Export License. The scorpions arrived in Talent, Oregon, on September 12, 2017.
  - On or about September 8, 2017, defendant agreed and conspired with another to export twelve live scorpions from the District of Oregon to Germany (USPS Package ID: CH024168544US). Defendant falsely labeled scorpions as chocolates. The package was intercepted by Customs and Border Protection on September 14, 2017.
  - On or about October 2, 2017, defendant agreed and conspired with another to knowingly deliver via USPS, live scorpions from Texas to the District of Oregon (USPS Package ID: 9500116014477275198258).
  - On October 21, 2017, and October 29, 2017, defendant sent 508.05 Euros to another to purchase, mail, and import scorpions from Germany into the United States without first obtaining a FWS Import/Export License.
  - On or about December 13, 2017, defendant agreed and conspired with another to knowingly cause to be delivered via USPS, 200 live scorpions from Michigan to the District of Oregon (Package ID: #EM038897891US). Defendant received the USPS mailing containing scorpions on December 22, 2017.
  - On March 21, 2018, defendant paid 125 Euros to a known co-conspirator to purchase, mail, and import scorpions from Germany into the United States without first obtaining a FWS Import/Export License.
6. **Sentencing Factors:** The parties agree that the Court must first determine the applicable advisory guideline range, then determine a reasonable sentence considering that range and the

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factors listed in 18 U.S.C. § 3553(a). Where the parties agree that sentencing factors apply, such agreement constitutes sufficient proof to satisfy the applicable evidentiary standard.

7. **Relevant Conduct:** The parties agree that defendant's relevant conduct pursuant to USSG § 2Q2.1 is a Base Offense Level of 6, prior to adjustments. The parties further agree only the following guidelines apply to this case.

Base offense level [§ 2X1.1 and 2Q2.1(a)].....	6
Pecuniary gain/Pattern of Violations [§ 2Q2.1(b)(1)(A)].....	+2
Acceptance of Responsibility [§ 3E1.1].....	-2
<b>Total offense level</b> .....	<b>6</b>

8. **Acceptance of Responsibility:** Defendant must demonstrate to the Court that defendant fully admits and accepts responsibility under USSG § 3E1.1 for defendant's unlawful conduct in this case. If defendant does so, the USAO will recommend a two-level reduction in defendant's offense level. The USAO reserves the right to change this recommendation if defendant, between plea and sentencing, commits any criminal offense, obstructs or attempts to obstruct justice as explained in USSG § 3C1.1, or acts inconsistently with acceptance of responsibility as explained in USSG § 3E1.1.

9. **Joint Sentencing Recommendation:** So long as defendant demonstrates an acceptance of responsibility as explained above, the parties will recommend that defendant be sentenced to two-years' probation, a \$5,000 fine, and 250 hours of community service.

10. **Fine:** The parties agree to recommend that any fine imposed by the Court be designated to the Lacey Act Reward Fund, United States Fish and Wildlife Service, Division of Financial Management, Cost Accounting Section, 7333 West Jefferson Avenue, Suite 33, Lakewood, Colorado, 80235.

11. **Community Service:** The parties agree to recommend that any community service imposed by the Court be completed through Dr. Meredith L. Gore PhD's Conservation Criminology studies. The parties agree that individual research, homework, testing, projects, etc., assigned to defendant through Dr. Gore will count towards defendant's community service obligation.

12. **Waiver of Appeal/Post-Conviction Relief:** Defendant knowingly and voluntarily waives the right to appeal from any aspect of the conviction and sentence on any grounds, except for a claim that: (1) the sentence imposed exceeds the statutory maximum, or (2) the Court arrives at an advisory sentencing guideline range by applying an upward departure under the provisions of Guidelines Chapters 4 or 5K, or (3) the Court exercises its discretion under 18 U.S.C. § 3553(a) to impose a sentence which exceeds the advisory guideline sentencing range as determined by the Court. Should defendant seek an appeal, despite this waiver, the USAO may

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take any position on any issue on appeal. Defendant also waives the right to file any collateral attack, including a motion under 28 U.S.C. § 2255, challenging any aspect of the conviction or sentence on any grounds, except on grounds of ineffective assistance of counsel, and except as provided in Fed. R. Crim. P. 33 and 18 U.S.C. § 3582(c)(2). In the event that any of defendant's convictions under this agreement are vacated, the government may reinstate and/or file any other charges, and may take any position at a resentencing hearing, notwithstanding any other provision in this agreement.

13. **Court Not Bound:** The Court is not bound by the recommendations of the parties or of the presentence report (PSR) writer. Because this agreement is made under Rule 11(c)(1)(B) of the Federal Rules of Criminal Procedure, defendant may not withdraw any guilty plea or rescind this plea agreement if the Court does not follow the agreements or recommendations of the parties.

14. **Full Disclosure/Reservation of Rights:** The USAO will fully inform the PSR writer and the Court of the facts and law related to defendant's case. Except as set forth in this agreement, the parties reserve all other rights to make sentencing recommendations and to respond to motions and arguments by the opposition.

15. **Breach of Plea Agreement:** If defendant breaches the terms of this agreement, or commits any new criminal offenses between signing this agreement and sentencing, the USAO is relieved of its obligations under this agreement, but defendant may not withdraw any guilty plea.

If defendant believes that the government has breached the plea agreement, defendant must raise any such claim before the district court, either prior to or at sentencing. If defendant fails to raise a breach claim in district court, defendant has waived any such claim and is precluded from raising a breach claim for the first time on appeal.

16. **Memorialization of Agreement:** No promises, agreements, or conditions other than those set forth in this agreement will be effective unless memorialized in writing and signed by all parties listed below or confirmed on the record before the Court. If defendant accepts this offer, please sign and attach the original of this letter to the Petition to Enter Plea.

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17. **Deadline:** This plea offer expires if not accepted by March 11, 2022, at 5:00 p.m.

Sincerely,

SCOTT ERIK ASPHAUG  
United States Attorney

/s/ John C. Brassell  
JOHN C. BRASSELL  
Assistant United States Attorney

I have carefully reviewed every part of this agreement with my attorney. I understand and voluntarily agree to its terms. I expressly waive my rights to appeal as outlined in this agreement. I wish to plead guilty because, in fact, I am guilty.

3/8/22  
Date

/s/ Devin Huseby for Darren Drake  
Defendant

I represent the defendant as legal counsel. I have carefully reviewed every part of this agreement with defendant. To my knowledge, defendant's decisions to make this agreement and to plead guilty are informed and voluntary ones.

3/8/22  
Date

/s/ Devin Huseby  
Attorney for Defendant